

AUGUST 16, 2011

CITY OF TRINIDAD
TRINIDAD, COLORADO

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, August 16, 2011 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Garduno, presiding
	Councilmembers	Aragon, Pando, Rino, Shew, Toupal, Velasquez
Also present:	City Attorney	Beatty
	City Clerk	Garrett
Absent:	City Manager	Gil de Rubio

The pledge of allegiance was recited.

READING OF THE MINUTES. Regular Meeting of August 2, 2011 and Special Meeting of August 9, 2011. Mayor Garduno asked if there were any questions, corrections or additions to the minutes. There being none, a motion to approve the minutes as submitted was made by Councilmember Shew and seconded by Councilmember Pando. The motion carried unanimously.

PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN. None.

REPORT BY CITY MANAGER. None, due to the absence of City Manager Gil de Rubio.

REPORT BY CITY ATTORNEY. City Attorney Beatty provided Council with a comprehensive report on sales tax receipts for the City indicative of the most recent month, June, 2011, which totaled \$438,088. He said that total represents an approximate 8.7% increase over June, 2010. He continued that reporting month by month can be misleading, so within his report he included graphs reflecting the City's sales tax receipts since 2000. He noted that one can see the trend with a relative steady increase until 2007 and then in 2008 and 2009 the City saw a pretty significant decline. 2010 was 4% below 2009 receipts. The second graph in the report shows sales tax receipts on a year-over-year basis. City Attorney Beatty said the City is able to calculate sales tax receipts for year beginning January 1, 2010 through June, 2011 and compare those figures to the prior ten years. He pointed out that within the past year sales tax receipts increased slightly by about 1.9%, totaling \$4.79 million, which represents a slight increase. However the City saw a very severe decline from July, 2009 to June 2010 period. He concluded that he felt a decade report would provide a more comprehensive picture of our sales tax. Finally he pointed to the third page of the report and said it reflects raw numbers for sales tax receipts on a month by month basis since January, 2000.

Councilmember Aragon asked for an update regarding ARPA (Arkansas River Power Authority). City Attorney Beatty reported that he and Councilmember Shew attended an ARPA teleconference special meeting this afternoon whereby a brief update was provided on the project. Also it was reported that the plant is off-line due to steam leaks and vibration in unit #8. However, unit #6, the older unit, is still running. ARPA anticipated that it will be back on-line tomorrow afternoon. ARPA also addressed an over-billing issue from our primary supplier of power, MEAN (the Municipal Energy Agency of Nebraska). MEAN caused a slight over-billing to occur in May and June. Consequently it was passed on to members in their energy cost adjustment and we will see an adjustment on our September invoice. The City should see a very nominal power cost adjustment in September which will likewise affect the City's customers. Councilmember Aragon asked if ARPA still doesn't know what they are doing as far as supplier in the long term. City Attorney Beatty said MEAN terminated their agreement with ARPA with a notification to ARPA issued at the beginning of this year. The City has been encouraging ARPA to issue an RFP (request for proposal) for an alternative power supply, however one has not yet been issued. Rick Rigel, Interim General Manager for ARPA, is now going forth and speaking to alternative suppliers.

COMMITTEE REPORTS. None.

UNFINISHED BUSINESS. Public hearing for consideration of an ordinance of the City of Trinidad, Colorado, submitting proposed Home Rule Charter amendments regarding elected officials' candidacy and term limitations to the registered electors of the City at the Regular Municipal Election to be held on November 1, 2011. Mayor Garduno declared the public hearing open and called for comment. There being none, the hearing was closed.

Second reading of an ordinance of the City of Trinidad, Colorado, submitting proposed Home Rule Charter amendments regarding elected officials' candidacy and term limitations to the registered electors of the City at the Regular Municipal Election to be held on November 1, 2011. The ordinance title was read aloud. City Attorney Beatty pointed out to Council that on page 2 of the ordinance he has made a small revision to the draft Council considered on first reading. The detail of the revision was provided in red-line. In Section 3, first sentence, rather than it reading "Subject to the provisions of this subsection..." he said it has been changed to "Subject to the provisions of this *paragraph*..." He explained that the long version ordinance that was being considered earlier had numbered paragraphs as subsections, but that is no longer relevant. He continued that in Section 4 he added a few additional words for the ballot language so that it reads "Shall Section 4.2, Paragraph 5, of Chapter IV ("Elected Officials") of the Home Rule Charter..." to now includes the chapter number and what it is entitled. He concluded that City staff recommends approval of the ordinance with those revisions. Councilmember Rino moved for the approval of the ordinance with those revisions on second reading. The motion was seconded by Councilmember Toupal and carried by a unanimous roll call vote. The ordinance was approved and will be effective on August 26, 2011 for submission to the voters on November 1, 2011.

AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, SUBMITTING PROPOSED HOME RULE CHARTER AMENDMENTS REGARDING ELECTED OFFICIALS' CANDIDACY AND TERM LIMITATIONS TO THE REGISTERED ELECTORS OF THE CITY AT THE REGULAR MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 1, 2011

Hotel and Restaurant with Optional Premises liquor license renewal request by Trinidad Golf, LLC d/b/a Cougar Canyon Golf Links at 306 Fairway Court. Mayor Garduno asked if the comments made by the Fire Chief and Building Inspector were addressed. Karl Gabrielson addressed Council and asked what the comments were. Mayor Garduno said they listed the fire suppression system over the stove and smoke detectors need checking, and a junction box cover is missing. She found in the report that the violations had been cleared. Fire Chief Perea addressed Council and confirmed that they were cleared. Mr. Gabrielson said the Building Inspector likewise had returned and said he no longer had any issues. Councilmember Toupal made a motion to approve the renewal and the motion was seconded by Councilmember Velasquez. Roll call was taken on the motion and carried unanimously.

MISCELLANEOUS BUSINESS. Special events permit request (malt, vinous and spirituous) by Trinidad Roundup Association at 206 N. Animas Street (Sebastiani Gym) for September 3, 2011. Mayor Garduno noted that the Building Inspector and Fire Chief have approved the premise and everything appears to be in order. She asked if any Council member had any questions. Councilmember Rino said this is a long-standing annual event and said the application is just for September 3rd, one day. Ron Galasso said the permit is just for the Queen's Dance on Saturday night. A motion to approve the permit was made by Councilmember Rino and seconded by Councilmember Pando. The motion carried by a unanimous roll call vote.

Hotel and restaurant liquor license renewal request by Rino's Restaurant, LLC d/b/a Rino's Restaurant at 400 E. Main Street. Mayor Garduno advised Council that the comments in their packets made by the Fire Chief and Building Inspector have been taken care of and everything is in order. Councilmember Toupal moved to approve the license renewal. Councilmember Shew seconded the motion. Roll call was taken and the motion carried with all Council members and the Mayor voting aye, excepting Councilmember Velasquez who abstained.

Consideration of request from New Elk Coal Company, LLC for additional water. Upon inquiry, City Attorney Beatty advised that there are no changes from their previous discussion at work session. He said that if Council wants to approve the request in part or in whole, staff's recommendation is that the approval include that the water will only be made available from Trinidad Reservoir and not any other source and that it is dependent upon water availability in Trinidad Reservoir. He concluded that staff recommends in consult with the City's water counsel and water engineer, the approval of an additional 100 acre feet of water, rather than the 200 requested. Councilmember Shew moved to approve an additional 100 acre feet. The motion was seconded by Councilmember Aragon and carried by a unanimous roll call vote.

Consideration of request for an extraterritorial water tap by New Elk Coal Company, LLC. Utilities Supt. Fernandez addressed Council and said this item was discussed at work session and at that time the tap fee had not yet been determined. He said he did research and found what had been assessed for the U. S. Army's Pinon Canyon larger 8" water tap. He said the plant investment fee for this tap is \$50,000, which is the cost right between that charged for a six and eight inch tap. He added that personnel from New Elk Coal Company have been notified and agree to the fee. Councilmember Rino asked Supt. Fernandez if he had discussed with them the possibility of a four-inch tap rather than the six-inch tap they have requested. Supt. Fernandez said they were given the option and it appears they want to stay with the six-inch tap, but they could still change their mind. Mayor Garduno asked Supt. Fernandez if he recommends the six-inch tap. Supt. Fernandez responded affirmatively. Councilmember Rino expressed concerns that the City's going to have to drop North Lake by five to eight feet, and questioned if we'll be able to handle that drop in water. Supt. Fernandez said the demand for New Elk Coal Company is not that great and the figures provided would not be realized until they are at full build out and operation. That should buy time to re-build North Lake dam and get the water levels back up. He concluded that he feels confident that the City can do it. Councilmember Toupal agreed with Councilmember Rino and said he doesn't know why they would need that size of a tap. Councilmember Rino said if the demand is not there why do they need a six-inch tap and what will the water be used for. Supt. Fernandez said that according to Ron Thompson from the mine, it will be used for shower water for the crews as they change shifts. He added that they are seeking the larger tap because the mine is higher in elevation than the main on the North Fork Road. According to River City Engineering, they need to pump the water up and will need the bigger pipe to give them the velocity and the volume they need at the higher elevation. Going uphill changes the dynamics of the water hydraulics. The raw water request was for coal washing. Russ Palone, New Elk Coal Company, revisited their request for the raw water verifying that it was for washing the coal and the request was for 200 acre feet. He said he assumes the mine will come back again for the second 100 additional acre feet. He said Ron Thompson is out of the country. He continued that his understanding is they've talked about a 2" line going to the mine, so the mine may be amenable to a 4" tap. He clarified that Ron Thompson would have a better idea. He asked if part of the line is the City's and the City could then serve other users. Supt. Fernandez said the City will assume responsibility of the line. Russ Palone asked if the City will serve other uses. Supt. Fernandez said the potential is there, but the plans on file and reviewed by River City Engineering call for that 6" water tap. So, if they want to change it they should notify the City. Councilmember Rino asked if it was brought up to the mine that Council wanted them to consider a 4" tap rather than a 6" tap. Supt. Fernandez said he presented it to both Mr. Weaver and River City Engineering. Mr. Palone said his comments are based on conversation with the Assistant Mine Manager who is running things in Ron Thompson's absence. Supt. Fernandez said Council can delay action for a more affirmative answer. Councilmember Rino asked if it would be alright to postpone action to the next regular meeting. Mr. Palone and Supt. Fernandez both agreed. Councilmember Rino moved to table this item to the next regular meeting for an answer from the New Elk Coal Mine on the City's 4" water tap offer. Councilmember Pando seconded the motion. Councilmember Shew asked what kind of water tap is there now. Supt. Fernandez answered that there is none there at all. Roll call was taken and the motion carried unanimously.

Consideration of bid results for Gas shop parking lot concrete and asphalt paving project. Councilmember Aragon made a motion to accept the bid results for the project (low bid from Schultz Construction in the amount of \$55,183.20, as

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revised). The motion was seconded by Councilmember Shew and carried by a unanimous roll call vote.

Consideration of Amended Water Agreement with Tochter Water Association. Supt. Fernandez said there's no changes since this was discussed at work session. City Attorney Beatty suggested if Council wants to approve the First Amendment to Water Purchase Contract, he requested they approve the water re-sale permit also. He explained the First Amendment proposes a change in use of water tap #3 which was initially reserved for residential use. Tochter Water Association is seeking a commercial use for a bulk water station for that tap. He pointed out that the First Amended Agreement references that Tochter Water Association would obtain approval from Council for their re-sale permit. He recommended they approve or disapprove both. Councilmember Rino made a motion to approve the re-sale permit and the First Amendment to Water Purchase Contract with Tochter Water Association. Councilmember Shew seconded the motion. Roll call was taken on the motion which carried unanimously.

BILLS. Mayor Garduno said that on different pages and accounts there are payments for vacation/sick buy down for \$12,700 and the amounts were different and also payment for life jackets, vests, first aid kits and it all totaled to just under \$4,000. City Clerk Garrett said the vacation/sick buy down was probably for an employee who terminated and aside from that if someone buys down their vacation balance it is charged to that line item. The first aid kits were probably listed by each department and is part of the City's safety plan the City Manager is implementing. He had to get everybody up to speed with respect to the hard hats and safety vests, eyewear, etc., so it is by department that Council is seeing that breakdown. A motion to approve the bills was made by Councilmember Aragon. The motion was seconded by Councilmember Shew. Roll call was taken on the motion. The motion carried unanimously.

PAYROLL, August 6, 2011 through August 19, 2011. A motion to approve the payroll was made by Councilmember Toupal and seconded by Councilmember Pando. The motion carried unanimously.

Mayor Garduno asked if any Council members have street lights in front of their houses or nearby. Councilmember Rino said he did and Councilmember Aragon said she has one across the street. Mayor Garduno said the light in front of her house was changed from a regular street light to an LED light and asked if there was a reason for it. Public Works Director Valentine said he believes a vendor provided several sample lights free of charge to the City and they fit into the overhead style of light. He said he can't speak to how the locations were decided. They would have placed them for a visual of the product. Mayor Garduno said she read that they've found West Nile Virus in Otero County and asked if the City sprayed this year. PWD Valentine said the City did not primarily because of the dry conditions. He reminded that the City works with the County Health Department. Mayor Garduno asked if there's no plan to spray. PWD Valentine said not at this time. Councilmember Rino said the Health Department has a meeting tomorrow and he would check, adding that he thinks they are responsible. PWD Valentine said they are, in cooperation with the City.

ADJOURNMENT. There being no further business to come before Council, a motion to adjourn the regular meeting was made by Councilmember Rino and seconded by Councilmember Shew. The meeting was adjourned by unanimous vote of Council.

ATTEST:

JENNIE GARDUNO, Mayor

AUDRA GARRETT, City Clerk